

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JARRETT MILLER,

Plaintiff,

v.

CALVIN JOHNSON, *et al.*,

Defendants.

Case No. 2:20-cv-02125-GMN-VCF

ORDER

I. DISCUSSION

On July 7, 2021, the Court dismissed Plaintiff's First Amended Complaint without prejudice and with leave to amend within 30 days. (ECF No. 11). On July 26, 2021, Plaintiff filed a "Motion to Voluntarily Withdraw First Amended Complaint Without Prejudice." (ECF No. 13). In that motion, Plaintiff states that he is seeking representation and plans to refile at a later time. (*Id.*)

Because the Court already has dismissed the First Amended Complaint, there is no First Amended Complaint pending that Plaintiff can withdraw. The Court therefore construes Plaintiff's motion as a motion to dismiss this action without prejudice. Pursuant to Federal Rule of Civil Procedure 41(a)(1), a plaintiff may dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). The Court grants Plaintiff's motion to voluntarily dismiss this action without prejudice because no

1 responsive pleading has been filed in this case. If Plaintiff chooses to file a new complaint,
2 he must do so in a new case.

3 **II. CONCLUSION**

4 For the foregoing reasons, IT IS ORDERED that the motion to voluntarily dismiss
5 this action (ECF No. 13) is granted.

6 IT IS FURTHER ORDERED that this action is dismissed in its entirety without
7 prejudice.

8 IT IS FURTHER ORDERED that the motion for permission to use e-filing (ECF No.
9 12) is denied as moot.

10 IT IS FURTHER ORDERED that the Clerk of the Court shall enter judgment
11 accordingly and close this case. No further documents shall be filed in this closed case.

12 DATED THIS 30 day of July 2021.

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15 UNITED STATES DISTRICT JUDGE
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